

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL MISC. PETITION NO. 171 OF 2017

Smt. Ansuiya Bai, W/o Late Shri Ramji Soni, aged about 62 years, occupation-Housewife, R/o Jain Mandir Road, Gandhi Chowk, near Bhattar Dukan, Durg, Tahsil and District Durg (C.G.)

... Petitioner

Versus

1. State of Chhattisgarh, thorough District Magistrate Office, Durg (C.G.)
2. Smt. Revati Soni, W/o Ishwar Soni, R/o Jain Mandir Road, Ghandhi Chowk, Durg, Tahsil and District Durg (C.G.)
3. Smt. Shakun Soni, W/o Late Ashok Soni.
4. Chotu Soni, S/o Ashok Soni.

Both Respondents No. 3 and 4 are residents of Rajnandgaon, Diwan Para, near Sheetal Mandir, Tahsil and District Rajnandgaon (C.G.)

... Respondents

For Petitioner	:	Mr. Rakesh Pandey, Advocate.
For Respondent-State	:	Mr. V.K. Tekam, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

07/02/2017

1. The present Criminal Misc. Petition under Section 482 of CrPC has been preferred by the Petitioner against the order dated 14.7.2016 passed by the Additional Sessions Judge, Durg, in Criminal Revision No. 0000115 of 2016 as also the order dated 30.1.2016 passed by the Judicial Magistrate First Class, Durg, in an unregistered complaint case.
2. Vide impugned orders, the Trial Court as well as the Revisional Court have rejected the complaint case preferred by the Petitioner, on the ground that prima facie no strong case has been made out by the Petitioner and that the nature of allegations levelled by the Petitioner also seems to be highly improbable.
3. Learned Counsel for the Petitioner submits that it is a case where both the Courts below have committed an error of law, inasmuch as not appreciating the fact that so far as the medical evidence is concerned, no proof of medical evidence was required particularly for an offence which is

alleged to have committed i.e., under Section 323 of IPC. It was further contended by the Counsel for the Petitioner that there was also an eye-witness to the incident, i.e., Mohd. Imran, whose statement was recorded and whose statement has been also disbelieved by the two Courts below. Thus, the Courts below have not acted properly, actively and judiciously and therefore the impugned orders deserve to be quashed and the Trial Court may be ordered to register the complaint case and proceed further with the complaint case.

4. Having heard the contentions put forth on either side and also on perusal of the record which also consists the statements which have been recorded, it appears that the Courts below were justified in reaching to the conclusion that the allegations levelled and the case tried to be made up by the Petitioner seems to be very improbable. PW-1, Mohd. Imran, who is said to be an eye-witness, in his deposition, has stated that he saw the accused persons hit the Petitioner against the wall because of which she also had sustained injuries on her head and other parts of her body. But, in spite of this, there is no proof of any medical assistance which was taken by the Petitioner; nor is there any evidence in this regard. It is also highly improbable to believe that in spite of the Petitioner having beaten up so badly, the said eye-witness who is also the immediate neighbour to the house of the Petitioner did not react in any manner or even called upon the other neighbours for the rescue of the Petitioner. It is also reflected from the two impugned orders that the incident is of 24.3.2013 and the first complaint which was lodged by the Petitioner, was before the Mahila Thana, Durg, on 3.4.2013, i.e., almost after a period of 10 days from the date of incident. This itself gives a rise to a great element of doubt on the case of the Petitioner. Further, it is also hard to believe that a lady who has been beaten up black and blue would not approach the police authorities immediately to lodge a complaint nor would call upon the neighbours to her rescue or taking other legal remedies

available to the Petitioner. All these factual circumstances were taken into consideration by the two Courts below while rejecting the complaint of the Petitioner as also the criminal revision which was filed. In the opinion of this Court, the two Courts below have not committed any illegality or infirmity in rejecting the complaint of the Petitioner.

5. Thus, for the foregoing reasons, the present Criminal Misc. Petition does not call any interference and the same being devoid of merits is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge